

**CITY OF LINCOLN, NEBRASKA
COMMISSION ON HUMAN RIGHTS
MINUTES
Thursday, June 24, 2010**

CALL TO ORDER/ROLL CALL

The June 24, 2010 meeting of the Commission on Human Rights was called to order at 4:00 p.m. by Chairperson Wendy Francis.

Roll Call was documented as follows:

MEMBERS PRESENT

Commissioners Karla Cooper, Gene Crump, Dick Noble, Jose Quintero, Mary Reece, Hazell Rodriguez and Wendy Francis.

MEMBERS ABSENT

Commissioners Takako Olson and Anitra Warrior.

STAFF PRESENT

Investigator Margie Nichols and Connie Guillaume.

APPROVAL OF MAY 13, 2010 MINUTES

A motion was made by Commissioner Crump and seconded by Commissioner Reece to approve the minutes of the May 13, 2010 meeting. Chair Francis requested roll call.

Voting Aye: Commissioners Crump, Reece, Rodriguez, Quintero, Francis.

Abstaining: Commissioners Cooper and Noble

Motion to approve the May 13, 2010 minutes carried 5-0-2.

APPROVAL OF JUNE 24, 2010 AGENDA

A motion was made by Commissioner Noble and seconded by Commissioner Crump to approve the June 24, 2010 meeting agenda.

Voting Aye: Commissioners Cooper, Noble, Reece, Rodriguez, Quintero, Crump, Francis.

Motion to approve the June 24, 2010 Agenda carried 7-0.

CASE DISPOSITIONS

1. LCHR No.: 09-0918-048-E-R

A motion for a finding of No Reasonable Cause on both allegations was made by Commissioner Reece seconded by Commissioner Cooper.

Commissioner Rodriguez noted that while she agreed with the conclusion, she was concerned over the manager in question. She questioned that even though the manager seemed to treat everyone the same, could it still be construed as discrimination. Investigator Nichols's impression of this manager was that he was a 'by the book' manager and treated everyone the same. Complainant was not treated any different than other employees.

Hearing no further discussion, Chair Francis asked that the roll be called.

Voting Aye: Commissioners Noble, Reece, Rodriguez, Quintero, Cooper, Crump Francis.

Motion for a finding of **No Reasonable Cause on all allegations** carried 7-0.

2. LCHR No.: 09-1007-052-E-R

A motion for a finding of No Reasonable Cause on all allegations was made by Commissioner Noble seconded by Commissioner Crump.

Commissioner Rodriguez questioned the purchase of a beard guard as an agreed upon accommodation. Investigator Nichols said they were not cost prohibitive; she priced a re-usable beard guard at \$7.99. She stressed that the issue for the Complainant in this case was not the cost of the beard guard, but that he felt he should not be required to wear one at all. He had made it clear that he was not going to wear a beard guard.

Discussion included if this was a company or government policy that people in food service wear hair guards, if this particular employee was singled out and was Complainant advised at time of hire that hair/beard guards were mandatory. Investigator Nichols replied hair guards are a health/safety standard (not OSHA, but a health department standard). She added there was no evidence of any other current employee with a beard; all males were clean-shaven. She continued that the Complainant said the issue of a beard/hair guard had arisen only after the current owner had purchased the franchise and a new manager was put in place.

Commissioner Rodriguez commented that the Complainant would occasionally not have a beard and asked if having a beard was a strict religious practice. Investigator replied yes, that Complainant said that men are supposed to have a beard (representing a holy state of devotion).

Hearing no further discussion, Chair Francis asked that the roll be called.

Voting Aye: Commissioners Reece, Rodriguez, Quintero, Cooper, Crump, Noble, Francis.
Motion for a finding of **No Reasonable Cause** carried 7-0.

3. LCHR No.: 09-1120-059-E-R

A motion for a finding of No Reasonable Cause on all allegations was made by Commissioner Crump seconded by Commissioner Reece.

Hearing no discussion, Chair Francis asked that the roll be called.

Voting Aye: Commissioners Rodriguez, Quintero, Cooper, Crump, Noble, Reece, Francis.
Motion for a finding of **No Reasonable Cause** carried 7-0.

4. LCHR No.: 09-1123-060-E-R

A motion for a finding of No Reasonable Cause was made by Commissioner Cooper seconded by Commissioner Crump.

Commissioner Crump asked how the national origin was determined for the Complainant. Investigator Nichols said Complainant had self-identified her national origin.

Hearing no further discussion, Chair Francis asked that the roll be called.

Voting Aye: Commissioners Quintero, Cooper, Crump, Noble, Reece, Rodriguez, Francis.
Motion for a finding of **No Reasonable Cause** carried 7-0.

5. LCHR No.: 09-1208-063-E-R

A motion for a finding of No Reasonable Cause on all allegations was made by Commissioner Reece seconded by Commissioner Noble.

Commissioner Rodriguez questioned the creation of the floating manager position for the Complainant and then him being terminated from that position. Investigator Nichols explained, according to the Respondent, that Complainant stated he could not return to his job, do his work and didn't know if he ever could. Respondent offered the Complainant a floating manager position, knowing that his short term disability would run out. They wanted to make sure that he was compensated up to the point when that happened. When it did run out, their belief was that he had no intention of returning to work and would then apply for long term disability.

Investigator Nichols commented that the Respondent and staff provided internal emails documenting the discussions of every meeting with the Complainant; Complainant was not copied on the emails.

Investigator Nichols noted that the Complainant did have a doctor's release to return to work. Customarily, employers would retain a copy of a doctor's release to return to work in the employee's file. Respondent alleges they were unaware that a release existed until Investigator Nichols mentioned it, and that they searched their files extensively, but never found a copy.

Commissioner Reece questioned the termination date of the 15th the Complainant had given when filing for unemployment on the 23rd. Investigator Nichols said the Complainant said he must have mixed up his dates.

Hearing no further discussion, Chair Francis asked that the roll be called.

Voting Aye: Commissioners Cooper, Crump, Noble, Reece, Rodriguez, Quintero, Francis.
Motion for a finding of **No Reasonable Cause** carried 7-0.

6. LCHR No.: 10-0118-004-H

A motion for a finding of No Reasonable Cause was made by Commissioner Francis seconded by Commissioner Crump.

Commissioner Crump noted that the Respondent seemed a bit 'over-generous' with his tenants. He questioned why the Complainant would move back into the Respondent's apartment when she had previously moved out because of his alleged behavior. Investigator Nichols had asked Complainant the same question and received the response that this time, 'she (Complainant) had a man.' Nichols confirmed a male roommate was on the lease; however, he was not available for an interview.

She explained that the Respondent had a history of doing favors for his tenants, such as loans and help with bills. He kept fairly good records and there was evidence that tenants had repaid him. In this case, Respondent claimed he allowed Complainant to move back in only if she agreed to pay rent owed to him from her previous tenancy. The lease agreement stipulated a rent higher than other apartments, but did not explain that part of it was payment of back rent. Complainant did acknowledge the additional amount of rent was for back rent. However, she became delinquent almost from the beginning of her second tenancy.

Commissioners asked how often would the Respondent visit the Complainant and how would he know if she needed errands run or bills paid. Investigator Nichols reported that the Complainant cut Respondent's hair at times and he would drop by when doing maintenance on the property. He lived nearby, so there were many times they talked. Investigator Nichols continued that all tenants but one were female, either single or with children, and none were aware of this case.

Hearing no further discussion, Chair Francis asked that the roll be called.

Voting Aye: Commissioners Crump, Noble, Reece, Quintero, Cooper, Francis.

Abstaining: Commissioner Rodriguez.

Motion for a finding of **No Reasonable Cause** carried 6-0-1.

7. LCHR No.: 10-0304-005-H

A motion for a finding of No Reasonable Cause was made by Commissioner Crump seconded by Commissioner Cooper.

Commissioner Reece asked if the Complainant's friend/fiance was on the lease. Investigator Nichols verified that he was not on the lease. Commissioner commented that evidence showed many instances of late notices and 14/30 days notices filed.

Commissioner Rodriguez asked why the issue of an uninvited guest was not listed or included as a lease violation along with the other violations on the 14/30 notice. Investigator Nichols responded that this was Investigator Wortman's case and she was not as familiar with the details. While the 'uninvited guest' was not listed as a lease violation, it was mentioned in the cover letter with the notice. She added that there was an agreement between the Complainant and the Respondent that he stay off the property.

Hearing no further discussion, Chair Francis asked that the roll be called.

Voting Aye: Commissioners Noble, Reece, Rodriguez, Quintero, Cooper, Crump, Francis.

Motion for a finding of **No Reasonable Cause** carried 7-0.

8. LCHR No.: 10-0310-006-H

A motion for a finding of No Reasonable Cause on all allegations was made by Commissioner Reece seconded by Commissioner Noble.

Hearing no discussion, Chair Francis asked that the roll be called.

Voting Aye: Commissioners Reece, Rodriguez, Quintero, Cooper, Crump, Noble, Francis.

Motion for a finding of **No Reasonable Cause** carried 7-0.

9. LCHR No.: 10-0322-007-H

A motion for a finding of No Reasonable Cause was made by Commissioner Cooper seconded by Commissioner Reece.

Commissioner Rodriguez asked if there was a cause of action since the Complainant was deceased. Investigator Nichols responded that City Law deferred to HUD and HUD's policy was to proceed with the investigation. If the Commissioners were to find Reasonable Cause, investigators would contact family members to ask if they wanted to continue.

Investigator Nichols confirmed that the Respondent had kept very good records of calls, requests for services from all tenants and documentation on repair costs. Everything was documented by his Property Manager in telephone log books as they were received and repairs made. There was no indication that pages had been removed from the book. There wasn't an opportunity for a rebuttal interview with the Complainant.

Hearing no further discussion, Chair Francis asked that the roll be called.

Voting Aye: Commissioners Quintero, Cooper, Crump, Noble, Reece, Francis.

Abstaining: Commissioner Rodriguez

Motion for a finding of **No Reasonable Cause** carried 6-0-1.

10. LCHR No.: 10-0322-008-H

A motion for a finding of No Reasonable Cause was made by Commissioner Cooper seconded by Commissioner Noble.

Investigator Nichols indicated that she had numerous phone conversations with the Complainant asking for a rebuttal interview. After several requests, Complainant made an appointment, but failed to show. A second appointment was made and Complainant still did not show. A letter was then written to Complainant to call and make another appointment with the Investigator.

Commissioner Crump asked should the Commission make a decision, was the Complainant then barred from bringing this complaint again. Investigator Nichols replied that HUD recommended that the investigation proceed. She verified that once the Commissioners make a determination, the Complainant would be barred from bringing the complaint again. She said a telephone rebuttal interview was possible, but the Complainant did not contact the office after the second missed appointment. There had been no contact or response as of June 4. It was the Investigator's impression that since she had filed at the same time as the Complainant from the previous case and when that person had died, she did not want to continue.

Investigator Nichols indicated that there was enough evidence presented from the Respondent to have the Commission make a determination. She stated that the determination letter would be sent via regular mail and certified mail. All determination letters give the Complainant the opportunity to forward their complaint directly to HUD if they do not agree with the Commission's finding.

It was noted that only three of the six apartments were occupied in this complex; this Complainant, the Complainant from the previous case and a male; all were minorities. Respondent also owns another complex.

Hearing no further discussion, Chair Francis asked that the roll be called.

Voting Aye: Commissioners Quintero, Cooper, Noble, Reece, Rodriguez, Francis.

Abstaining: Commissioner Crump

Motion for a finding of **No Reasonable Cause** carried 6-0-1.

PRE-DETERMINATION SETTLEMENT AGREEMENTS

11. LCHR No.: 10-0326-012-E-R

A motion was made by Commissioner Noble and seconded by Commissioner Cooper to accept the pre-determination settlement agreement as written.

Chair Francis requested roll be called.

Voting Aye: Commissioners Cooper, Crump, Noble, Reece, Rodriguez, Quintero, Francis.

Motion to accept the pre-determination settlement carried 7-0.

12. LCHR No.: 10-0428-020-E-R

A motion was made by Commissioner Cooper and seconded by Commissioner Crump to accept the pre-determination settlement agreement as written.

Chair Francis requested roll be called.

Voting Aye: Commissioners Cooper, Crump, Noble, Reece, Quintero, Francis.

Abstaining: Commissioner Rodriguez

Motion to accept the pre-determination settlement carried 6-0-1.

ADMINISTRATIVE CLOSURE

13. LCHR No.: 10-0205-003-E

A motion to accept the Administrative Closure (due to Lack of Jurisdiction) was made by Commissioner Crump and seconded by Commissioner Noble.

Commissioner Rodriguez asked how the Complainant was determined to be an independent contractor. Investigator Nichols replied that Respondent only hires independent contractors. Employment/payroll documentation is requested covering a certain period of time. Respondent's records only show four independent contractors which is less than the required number of five employees to be eligible for investigate. Complainant was not disputing his status as an independent contractor versus employee since he was not actually sure. In this case, he was receiving rent in lieu of payment for services.

Chair Francis requested roll be called.

Voting Aye: Commissioners Noble, Reece, Rodriguez, Quintero, Cooper, Crump, Francis.
Motion to accept the Administrative Closure carried 7-0.

OLD BUSINESS

Investigator Nichols informed the Commissioners that the Mayor's FY 2010-11 Recommended Budget would be presented to the City Council on July 6 and released to the public on July 12. Commissioner Francis indicated that several letters of support for the Commission had already been sent to the Mayor and Council.

NEW BUSINESS

Investigator Nichols advised Commissioners of the upcoming HUD National Policy Conference, July 19-23, 2010 in New Orleans. She said funds were available for Commissioners to attend. Registration was free and Commissioners would be reimbursed for hotel, meals and travel expenses. She added she would forward HUD's registration link to Commissioners interested in attending.

PUBLIC COMMENTS (None)

ADJOURNMENT Meeting adjourned at 5:40 p.m.

NEXT MEETING: The next meeting is scheduled for **4 p.m, Thursday, July 29, 2010.**